



1714

Patent  
Attorney's Docket No. 003780-052

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of )

Ulf VELTEN et al )

Application No.: 09/819,793 )

Filed: March 29, 2001 )

For: POLYMERS FOR CEMENT  
DISPERSING ADMIXTURE )

Group Art Unit: 1714

Examiner: Pater A. Szekely

Confirmation No.: 2640

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**MAR 1 8 2003**

**GROUP 1700**

**RESPONSE TO RESTRICTION REQUIREMENT TRANSMITTAL LETTER**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Enclosed is a Response to Restriction Requirement for the above-identified patent application.

- ☐ A Petition for Extension of Time is also enclosed.
- ☐ A Terminal Disclaimer and the ☐ \$55.00 (2814) ☐ \$110.00 (1814) fee due under 37 C.F.R. § 1.20(d) are also enclosed.
- ☐ Also enclosed is/are \_\_\_\_\_.
- ☐ Small entity status is hereby claimed.
- ☐ Applicant(s) request continued examination under 37 C.F.R. § 1.114 and enclose the ☐ \$375.00 (2801) ☐ \$750.00 (1801) fee due under 37 C.F.R. § 1.17(e).
- ☐ Applicant(s) previously submitted \_\_\_, on \_\_\_, for which continued examination is requested.
- ☐ Applicant(s) request suspension of action by the Office until at least \_\_\_, which does not exceed three months from the filing of this RCE, in accordance with 37 C.F.R. § 1.103(c). The required fee under 37 C.F.R. § 1.17(i) is enclosed.
- ☐ A Request for Entry and Consideration of Submission under 37 C.F.R. § 1.129(a) (1809/2809) is also enclosed.
- ☒ No additional claim fee is required.
- ☐ An additional claim fee is required, and is calculated as shown below:

AMENDED CLAIMS					
	NO. OF CLAIMS	HIGHEST NO. OF CLAIMS PREVIOUSLY PAID FOR	EXTRA CLAIMS	RATE	ADDT'L FEE
Total Claims	38	MINUS 38 =	-0-	× \$18.00 (1202) =	-0-
Independent Claims	1	MINUS 3 =	-0-	× \$84.00 (1201) =	-0-
If Amendment adds multiple dependent claims, add \$280.00 (1203)					
Total Amendment Fee					
If small entity status is claimed, subtract 50% of Total Amendment Fee					
TOTAL ADDITIONAL FEE DUE FOR THIS AMENDMENT					

☐ A claim fee in the amount of \$\_\_\_\_\_ is enclosed.

☐ Charge \$\_\_\_\_\_ to Deposit Account No. 02-4800.

The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17, 1.20(d) and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By: \_\_\_\_\_

Mark L. Warzel  
Registration No. 47,264

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(703) 836-6620

Date: March 14, 2003



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Group Art Unit: 1714  
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GROUP 1700

**RESPONSE TO RESTRICTION REQUIREMENT**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

In complete response to the Official Action (Restriction Requirement) mailed on February 14, 2003, in connection with the above-identified application, Applicants elect with traverse, Group I, claims 1-14 and 20-38, directed to an acrylic polymer.

Applicants respectfully traverse the requirement for restriction for at least the following reasons.

In accordance with MPEP § 803, an application may be properly restricted to one or more claimed inventions only if (1) the inventions are independent or distinctly claimed, and (2) there is a serious burden on the Examiner if restriction is not required. Thus, even if appropriate reasons exist for requiring restriction, such a requirement should not be made unless there is a serious burden on the Examiner to examine all of the claims in a single application.

In this regard, it is respectfully submitted that the search required for the claims of Group II would be substantially co-extensive with the search for the claims of Group I since the claims all require the presence of the acrylic polymer of claim 1. It is further noted that the mortar, concrete, cement, or cementitious binder claims (*i.e.*, claims 15-19) depend either

directly or indirectly from the claim 1 (drawn to the acrylic polymer). A substantial overlap in the examination involved for Groups I and II is therefore present such that the claims are best examined together in the same application rather than in a separate divisional application.

In the Official Action, it is asserted that the claims of Groups I and II are related as mutually exclusive species in an "intermediate-final product relationship". As stated in the MPEP at § 806.04(b), Applicants respectfully note that for a restriction on this basis to be considered proper, typically the "intermediate loses its identity in the final product". In the present case, there is no apparent basis, however, to conclude that the intermediate product (*i.e.*, the acrylic polymer) would necessarily lose its identity in the final product (*i.e.*, the mortar, concrete, cement, or cementitious binder). Absent some reason to consider that the acrylic polymer would lose its identity, *e.g.*, through a chemical reaction, such that the final product does not show the characteristics of the intermediate product, a proper basis for requiring a restriction based on an intermediate-final product relationship does not exist.

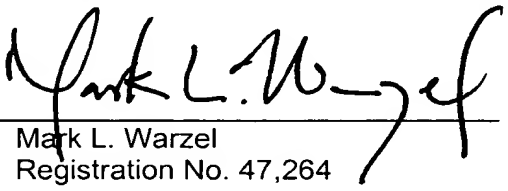
For at least the foregoing reasons, withdrawal of the Restriction Requirement and examination of pending claims 1-38 are respectfully requested.

If any issues remain outstanding, or should there be any questions concerning the above remarks or the application, the Examiner is respectfully requested to contact the undersigned at (703) 836-6620.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By: \_\_\_\_\_

  
Mark L. Warzel  
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Date: March 14, 2003